

ORIGINAL

In the United States District Court for the Northern District of Texas
Dallas Division

(USA and)
 Jamal Elhaj-Chehade
 Co- plaintiff

Vs.

Educational Commission for Foreign Medical Graduates
 (entities and individuals) defendants

U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
FILED

MAR 7 2002

CLERK, U.S. DISTRICT COURT
 By _____
 Deputy

3:01-CV-01301-L
 3:01CV01301

Plaintiff's response to the defendants motion to excuse the parties from mediation
March 7th 20002

Comes now on this date, the plaintiff is filing his response to the defendants motions to excuse the parties that was received on March 6th 2002 as follow

- 1- the plaintiff firmly oppose the motion both in content , in format and in style and the alternative as misleading, and contain a lot of errors and lack of facts and it has many content unrelated to the motion to excuse for which the plaintiff is compelled to respond, and the plaintiff will not respond to the defendants word by word because the defendants already admitted to every element of every claims brought against them and the plaintiff amended his complaint.
- 2- the plaintiff firmly asserts his position to **motion** to settlement conference before a judge/judges. This is a must, and the plaintiff did request such motion both in the case 3:99-CV 680/D and in this case in October 2001, and repeated requests several times. The plaintiff will bring along the evidence he has(**as copies of the defendants income tax filings, defendants official publications and correspondence, and the defendants statements in the courts and in their publication including their aims and missions and sponsorships etc....**and such conference should serve as an introductory step or full alternative to mediation.
- 3- The plaintiff firmly **denies that** his claims are without facts, as **the defendants clearly admitted** to every element of every claims brought against them in their own publications and in their own words in **their incomes tax filing for every year of 1994-1999 period**. Such admittance to fact leaves no room for any doubt(the highest standard of evidence in criminal cases) thereby exceeding the requirement of evidences in this civil case(simple preponderance of evidence/ court must look into evidence in favor of the plaintiffs before any judgment, etc..).
- 4- The plaintiff did file his amended complaint before the deadline set by the court on March 1, 2002 and the plaintiff will not need to answer the old claims even though the plaintiff clearly stated of the evidence against the defendants. And the plaintiff asserts that the two cases are different as the case 3:99 CV680/D deals with the plaintiff certification revalidation early 1997 and in 1990 while the new case (claims) is based on new evidences and development in the case and include but not

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limited to the defendants abuse of their status under 501-3-c and defendants failure to fulfill their obligations under this clause, and corruption, price fixing, and profiling and retaliation and whistleblower act and double jeopardy that were never brought before. Interestingly however, the evidences and development in the new case are broad as to cover also the old case and prove beyond doubt.

- 5- The plaintiff asserts the facts that all the damages he has **are exclusively** done by the defendants abuse and violations. And the evidences speak for themselves as the **defendants either fail to fully fulfill or comply with their obligations and terms or the defendants acted outside the scope of their authorities.**
- 6- The plaintiff asserts that the USCA-5 order in the 3:99 CV 680-D case is not final, the USCA-5 simply denied the plaintiff motion to appeal as IFP(only on assumption alone that the case is frivolous), in addition, the order opinion by a magistrate judge are not final and the **plaintiff demanded and still demanding an appeal before USDC judge**. In addition, the plaintiff consent before a Magistrate judge(Judge Boyle) was and still conditional and the plaintiff does not recognize any order or opinion that violate such an agreement, not to forget it is an order that is unconstitutional and under the influence and without merit and based on **assumption rather than fact** that the plaintiff cannot prove things, not to forget that the order was prematurely done the day before the scheduled meeting between the parties and the judge, The plaintiff simply did not have the appropriate process and the whole process is a charade that the public will not be happy about it and the plaintiff is no longer responsible for the consequence of his actions as the plaintiff is entitled to the protection of the law and should the justice system fail to do so, the plaintiff is entitled to do what he sees fit to protect his life, and properties and rights even if this mean having the plaintiff receive the electric chair. Court Rulings **on assumption** alone that the plaintiff is a pro-se, and helpless are not valid and highly prejudicial and no judge would recognize any such ruling if the judge in the plaintiff shoes.
- 7- The plaintiff asserts that he did not waive his right for mediation neither in this case nor in the case 3:99-CV-680-D. and the plaintiff denies that the defendants did offer the plaintiff anything of merit as a settlement(the defendants offers do not buy a loaf of bread and it does not pay the monthly premium of health insurance that the plaintiff cannot afford despite his need for it as a result of the defendants assaults.) Moreover, the plaintiff will **accept** any reasonable offer(the plaintiff defines a reasonable offer as the offer the defendants(attorney) or judge would demand or willing to accept should they be in the plaintiff position).
- 8- The plaintiff firmly denies that any of his lawsuits are frivolous, the defendants admitted to everything in their income tax filings.
- 9- The defendants are the organized gangs of scammer. The defendants scams include unjustified expenses and deductions that were never done or extremely high or

deceptive in Nature. For example, effective 1994 and onward, the defendants continue in every year tax return to deduct as expenses “**Examination refund**”(as a prototype the plaintiff will submit at a later date a copy of the defendants ECFMG income tax filing for the **year1999 Form 990, Part II and part IV expenses- statements 2 and 8**) knowingly that the defendants stopped rendering refunds since 1994(plaintiff will submit a copy or the original defendants ECFMG directory or **ECFMG Form 100-S pages 2 paragraph Q&A #1 and bottom page 17 titled please note**). There is no doubt such expenses constitute fraud and deception against the United States and the plaintiff and the money was embezzled and channeled into mysterious accounts. Thereby depriving the plaintiff the opportunities that could be generated if those funds were used lawfully and under the terms of the defendants obligations according to the defendants aims and missions.

- 10- The defendants admitted to **inflated and unjustified** expenses taking into account the defendants claims of charitable institution(**see 1999 form 990 page 2, part II**) for example legal fees are extremely high (**1999 defendant form 990 Schedule A part II**) and the list is endless and in every year and speak for themselves that this organization is corrupt and it is not doing what it is supposed to be doing, and the defendants are misusing the funds generated for the purpose of the plaintiff welfare and benefits.
- 11- Every year in their tax filings, **The defendants lied to the government regarding status, activities and reasons and in their itemized statements**(as a prototype, the plaintiff will submit copies of the **defendants 1999 income tax statement in schedule A for 990 pages 1 through 6 Schedule A, which indicate that the defendants deceived the government in every part of the schedule A**) and the plaintiff will argue such things extensively in the court
- 12- the defendants admitted to be a **recruitment/employment** agency that is engaging in **price fixing and deliberately importing Foreign laborers**(**tax filing1999 ECFMG form 990 page II Part III**) and based on *new* evidence, the ECFMG defendants do have an additional office(other than the known one in Philadelphia) that is engaging in such practices, the additional office is at *2401 Pennsylvania Avenue, N.W. Suite 475 Washington D.C 20037, telephone 202-293-9320 and FAX 202-457-0751, (see defendants ECFMG 1999 tax return form 990 Statement D pages 5 and 6)* Such new evidence can **also** be used to prove the old case(3:99-CV-680-D) and leave no room for doubt of the defendants illegal activities that the court must take into consideration. Moreover, the new case extends to the defendants **obligations** toward the plaintiff regardless of the ECFMG Certification or status..
- 13- On September 8, 2000 filing of their brief and support, the defendants admitted in the case 3:99-CV 680-D to be **non educational** and they use their deceptive name” **educational” just to acquire public benefit and evade the laws** (**see court record for the case 3:99-Cv 680-D page 422**) and the defendants admitted that every year

between 1990-1999, the defendant sold at least sixty three thousands examinations **EVERY YEAR** (see **record** of the same case above **page 426-D under App 010**) thereby admitting that for every year 1990-1999, the defendants did not disclose **millions of dollars as gross income** (income before any deduction). The mysterious disappearance of such large sums negatively affected the plaintiff in loss of opportunities.

- 14- In addition, the defendants admitted to the abuse of non-profit status when they sue for the **loss of profit** in the case captioned as ECFMG v. Teknology laine and Dr Badralsadat in the USDC Greenville South Carolina . in the ECFMG plaintiff original claim (pages 5 and 20) filed on May 28,1999 with USDC clerk Larry W. Propes , Case Nr 6.99-1676-24. An organization cannot be solely non-profit for the sole purpose of increase revenues and profit. In addition, they admitted to for profit and their use as a non-profit was solely to avoid taxes and evade US laws and deceive the government, the people(the plaintiff) and the public.
- 15- Under 501-3-C, the defendants are required to contribute at least a **MINIMUM** of sixty percent of its gross income(income before any deduction) for the welfare and benefit of the(plaintiff) cause for which it is created and its aims and mission. The defendants fail to do so as **their income tax filings imply and** when added to the other lost millions of dollars resulted in the plaintiff loss of opportunities. Furthermore, under 501-3-C the defendants failed to disclose the additional millions of dollars they receive **EVERY YEAR** from their sponsoring six organizations, and matching and non-matching funds from private and public and other governmental and non governmental entities or parties. (**prototype, ECFMG form 990 for the year 1999**). The result is the same injuries to the plaintiff).
- 16- According to the new evidences in the defendant 1999 income Tax(**Form 990 Part III- Statement 3- titled as Organization's primary exempt purpose**) the defendants admitted to have a life term obligation toward the plaintiff regardless of the plaintiff status and regardless of ECFMG Certification or not. Accordingly, the defendants failed to deliver its obligation in full toward the plaintiff and causing harm to the plaintiff. Furthermore, additional new evidence in the **ECFMG initial complaint** in the case in USDC Greenville S.C. case number **6.99-1676-24** , initial complaint (**page 2**). Accordingly, nothing shows in the defendants income tax filing they have contributed in any way or delivered what they were supposed to deliver to benefit the plaintiff. Therefore, the **defendants scam** caused the plaintiff injuries. Such new evidence **also** prove the old case 3:99-Cv-680-D.
- 17- The plaintiff is interchangeably labeled and defined as FMG/IMG/IME because of his education in part was done outside the United States and Canada. According to the new evidences, **the defendants admitted to have a life term duty to promote the plaintiff** excellence regardless of the plaintiff status and location and regardless of the certification status. And the defendants do have duty to assess the plaintiff

cultural and educational needs, and create and opportunities and programs according to the plaintiff special needs. In other words the defendants do have duty toward the plaintiff to tailor their activities and programs(creating opportunities for the plaintiff)toward the plaintiff's needs. But the defendants income tax filings prove that the **defendants did not deliver what they are supposed to do and** the result the current plaintiff deteriorated status. For which the plaintiff is entitled for reliefs in all kinds both in this case and the old case. The court must be extremely careful before rendering any premature judgment. the plaintiff constantly demand from the defendants(this should serve as an additional and official request) what kind of opportunities did the defendants created for the plaintiff given the plaintiff at any level of assessed condition or under the defendants aims and mission..

- 18- The plaintiff declare under penalty of perjury that his statements are true and he will submit the appropriate copies(or original) of evidence at a later date. Furthermore, the plaintiff will use the defendants directory ECFMG form 100S for the year 1997 as a part of the evidences and the plaintiff will submit the original to the court. the plaintiff urges the defendants attorney to acquire the booklet from their client since their client the original supplier. The plaintiff does have also additional evidence and argument to be stated in the right time in court.

Wherefore premises Considered, the plaintiff is praying that this court allows for the mediation between the parties starting with a face to face conference before judge(s).

Certificate of Service

This is to certify that a true copy of the foregoing was sent to the defendants through their attorney Mrs Susan Schwartz/Mr Barry Moscovics via e-mail and USPS regular at 6688 N. Central Expressway# 850 Dallas Texas 75206-3913 on the same day submitted to the clerk. In addition the defendants are aware of the plaintiff intention to file this petition.

Respectfully submitted
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